

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JERMAINE ABRAMS, :
Petitioner, :
v. : Case No. 3:09-cv-71-KRG-KAP
RANDALL BRITTON, SUPERINTENDENT, :
S.C.I. HOUTZDALE, :
Respondent :

Report and Recommendation

Recommendation

Petitioner's motion for reconsideration, docket no. 11, should be denied.

Report

Petitioner's petition for a writ of habeas corpus was referred to me, and I filed a Report and Recommendation on August 28, 2009. No timely objections were filed and the Court denied the petition on September 17, 2009. Petitioner then sent objections dated August 4, 2009 (about three weeks before the date of the Report and Recommendation) in an envelope postmarked September 30, 2009, which arrived at the Clerk's Office and were docketed on October 1, 2009. Then petitioner filed the instant motion for reconsideration (not dated) in an envelope postmarked October 8, 2009 (Thursday), which arrived at the Clerk's Office on and were docketed on October 13, 2009 (Tuesday after Columbus Day).

The motion for reconsideration is untimely (the amendments to Rule 59(e) will not apply until December 1, 2009), and even when considered with the untimely objections, meritless. Petitioner argues both that the Report and Recommendation failed to address procedural default and that the Court erred in finding

procedural default, Motion at 2, but advances no coherent reason why the judgment should be altered.

Pursuant to 28 U.S.C. § 636(b)(1), the parties are given notice that they have ten days to serve and file written objections to this Report and Recommendation.

DATE: 30 October 2009



Keith A. Pesto,
United States Magistrate Judge

Notice by ECF to counsel of record and by U.S. Mail to:

Jermaine Abrams FT-4853
S.C.I. Houtzdale
P.O. Box 1000
Houtzdale, PA 16698-1000